IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19461 of 1997

Between:

M.Sajjan Rao,
S/o late M.Kishan,
63 years, R/o H.No.13-769/1,
Karwan, Hyderabad.

..... PETITIONER

AND

1. The Commissioner and Special Officer,
Municipal Corporation of Hyderabad,
B.R.Buildings, Tank Bund, Hyderabad.

2. The Deputy Commissioner of
Municipal Corporation, Hyderabad
Circle IV, Hyderabad.

3. The Administrator, Quli Qutub Shah
Urban Development Authority,
Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in not paying the compensation to the land acquired by them at Karwan, Hyderabad, without following the procedure under the Land Acquisition Act as illegal, arbitrary against the principles of natural justice and consequently direct the respondents to pay compensation at the present market value to the petitioner and his brothers for 327 sq.yards of land out of 1 acre 13 guntas in S.Nos.133 and 134 situated at Punch Bhai Alwa, Karwan, Hyderabad, acquired

for the purpose of construction of drainage.

Counsel for the Petitioner:MR.M.RAMALINGESWARA REDDY

Counsel for the Respondents: MR.V.RAGHUNATH REDDY, Standing Counsel

The Court at the stage of admission made the following ORDER:

Earlier, the petitioner filed WP.No.5176 of 1997 stating that he along with his four brothers are the owners and pattedars of the land admeasuring Ac.1-13 guntas in Survey Nos.133 and 134 situated at Punch Bhai Alwa, Karwan, Hyderabad and part of the said land was acquired by the respondents in the years 1996 and 1997 for the purpose of digging and construction of a sewerage drain canal but no compensation has been paid. This Court on 18-03-1997 disposed of the said writ petition holding that there is no material to show that the petitioner is the pattedar and owner of the land in question and on the bare averment, this Court cannot come to the conclusion that the petitioner is the owner and is entitled for compensation. However, directed the respondents to dispose of the representation made by the petitioner dated
07-02-1997. In obedience to the said orders, the respondents through letter dated 08-04-1997 send a reply to the petitioner rejecting his claim for payment of compensation.

In view of the same, the petitioner filed the present writ petition stating that rejection of his claim through the letter dated 08-04-1997 for payment of compensation for acquiring the land over an extent of 327 sq.yards in Survey Nos.313 and 314 of Karwan, Hyderbad, is arbitrary and illegal. The Municipal Corporation having encroached into the land belongs to the petitioner and constructed the drainage

canal through the said land, cannot deny the compensation.

In the impugned letter, it is clearly stated that the storm water drain was already existed along with the road inside Karwan sahu and the rainwater after passing through the sewerage drain was flowing into the river Moosi along with the natural valley portion. Since the petitioner unauthorisedly used drain water for agricultural purposes by blocking of the drain, for which, the residents of the locality were facing lot of difficulties and the entire drain water was allowed to follow on the main roads, the Municipal Corporation of Hyderabad has taken up the work of reconstruction of sewerage drain along with the valley portion.

The respondents filed counter-affidavit reiterating the same that the Municipal Corporation never encroached into the land of the petitioner and there was no need to acquire any portion of petitioner's land, inasmuch as it owns the land where the drain water passes through and it was restored to original position by removing the blockage of drain. In view of the same, the Municipal Corporation is under an obligation under Section 293(2) of the Hyderabad Municipal Corporation Act, 1955 to restore the natural drain.

The learned counsel for the petitioner submits that the petitioner never blocked the sewerage drain and when the authorities taken up the work of reconstruction of sewerage drain in the land belongs to the petitioner, he is entitled for compensation.

Whether the sewerage drain was in existence prior to the Municipal Corporation constructed and restored the said drain, which is said to have been there earlier, are the disputed questions of fact. If the petitioner suffered any damages in the hands of the respondents in constructing the sewerage drain, it is always open for him to move the competent civil court with necessary evidence and claim damages.

The writ petition is accordingly disposed of. No costs.

20th SEPTEMBER, 2004

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To

1. The Commissioner and Special Officer,
Municipal Corporation of Hyderabad,
B.R.Buildings, Tank Bund, Hyderabad.

2. The Deputy Commissioner of
Municipal Corporation, Hyderabad
Circle IV, Hyderabad.

3. The Administrator, Quli Qutub Shah
Urban Development Authority,
Hyderabad.

4 Two CD copies.